

**CITY OF MINNEAPOLIS  
NUISANCE CONDITION PROCESS REVIEW PANEL**

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**In the matter of the Appeal of  
Director's Order To  
Demolish the Property  
Located at 2639 Oliver Avenue N.  
Minneapolis, Minnesota.**

**FINDINGS OF FACT,  
CONCLUSIONS, AND  
RECOMMENDATION**

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This matter came on for hearing before the Nuisance Condition Process Review Panel on February 9, 2012, in City Council Chambers located in Minneapolis City Hall. Noah Schuchman, chair, presided and other board members present included Patrick Todd, Darrell Washington and Ben Foster. The Matter was continued and heard again at the April 12, 2012, hearing of the Nuisance Condition Process Review Panel, which was chaired by Noah Schuchman and other board members present included Patrick Todd, and Darrell Washington. Assistant City Attorney Lee C. Wolf was present for both meetings as *ex officio* counsel to the board. Kellie Jones represented the Inspections Division at both hearings. Mahmood Khan, owner of 2639 Oliver Avenue N., was present for both hearings. Based upon the Board's consideration of the entire record, the Board makes the following:

**FINDINGS OF FACT**

1. 2639 Oliver Avenue N. is a duplex in the Jordan neighborhood. The 2½ story structure was built in 1914. The building is 3,422 square feet and sits on a 5,365 square foot lot.
2. The property has been determined to be in substandard condition. The structure was damaged by a tornado on May 22, 2012, with damage to the roof, soffit, fascia, chimney, siding, windows, rear entry, and fencing.
3. The City Assessor's Office rates the overall building condition as fair.

4. On November 18, 2011, a Director's Order to Demolish the property, located at 2639 Oliver Avenue N. was sent to Mahmood Khan, owner of the property, based upon the Inspections Division of the City of Minneapolis' determination that the property at 2639 Oliver Avenue N. met the definition of a Nuisance under Minneapolis Code of Ordinances (hereinafter "M.C.O.") § 249.30. The applicable sections of M.C.O. § 249.30. provide that (a) *A building within the city shall be deemed a nuisance condition if:*

(1) *It is vacant and unoccupied for the purpose for which it was erected and for which purpose a certificate of occupancy may have been issued, and the building has remained substantially in such condition for a period of at least six (6) months.*

(2) *The building is unfit for occupancy as it fails to meet the minimum standards set out by city ordinances before a certificate of code compliance could be granted, or is unfit for human habitation because it fails to meet the minimum standards set out in the Minneapolis housing maintenance code, or the doors, windows and other openings into the building are boarded up or otherwise secured by a means other than the conventional methods used in the original construction and design of the building, and the building has remained substantially in such condition for a period of at least sixty (60) days.*

(3) *Evidence, including but not limited to neighborhood impact statements, clearly demonstrates that the values of neighborhood properties have diminished as a result of deterioration of the subject building.*

(4) *Evidence, including but not limited to rehab assessments completed by CPED, clearly demonstrates that the cost of rehabilitation is not justified when compared to the after rehabilitation resale value of the building.*

5. On December 5, 2011, the owner, Mahmood Khan filed an appeal of the Director's Order to Demolish, stating "Due Process, Equal Protection, Interference with Contract, 4<sup>th</sup> Amendment."

6. Pursuant to M.C.O. § 249.40(1) the building was examined by the Department of Inspections to ascertain whether the nuisance condition should be ordered for rehabilitation or demolition. Considering the criteria listed in M.C.O. § 249.40(1) the Inspections Department found:

a. The estimated cost to rehabilitate the building is \$92,548.00 to \$136,348.00 based on the MEANS square footage estimate. The assessed value of the property in 2011, was \$92,000.00. The assessed value of the property in 2010, was \$122,500.00 and in 2009 it was \$50,000.00. The after rehabilitation value of the property is estimated at \$125,000.00 per the CPED contracted appraiser.

b. The Jordan Area Community Council and property owners within 350 feet of 2639 Oliver Avenue N. were mailed a request for community impact statements. The Department of Inspections received seven (7) in response. Four of the responses state that the property has had a negative impact in the neighborhood and should be demolished. Three of the responses state that the property has had no effect on the neighborhood and should be repaired or renovated.

c. The Preservation and Design Team staff conducted a historic review of the property finding that the property does not constitute a historic resource and the demolition permits have been signed and returned to Minneapolis Development Review.

d. The vacant housing rate in the Jordan neighborhood was around 19.5% in 2010, of the approximately 755 houses on the City's Vacant Building Registration 119 are in the Jordan neighborhood, a neighborhood of approximately 2,569 housing units.

7. Based on the condition of the property, the cost to rehabilitate and the after-market rehab value, the Department recommended that the property should be demolished in order to eliminate the nuisance condition the property constituted. The owner, Mahmood Khan appeared at the February 9, 2012, appeals hearing and requested time to put together a rehabilitation plan for the property and present it to Department staff, the hearing was then continued to April 12, 2012.

8. At the April 12, 2012, Kellie Jones, Manager of the Problem Properties Unit stated that staff had met with the owner and had come up with an acceptable rehabilitation plan for the property that addressed the concerns of Department staff. The rehabilitation agreement would include a \$10,000.00 deposit to be held in escrow by the city in the event the owner fails to complete the rehabilitation.

## **CONCLUSIONS**

1. The building located at 2639 Oliver Avenue N. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(1) as the building is vacant and unoccupied for the purpose for which it was erected and the building has remained in such a condition for a period of at least six months.

2. The building located at 2639 Oliver Avenue N. meets the definition of nuisance condition as set forth in M.C.O. § 249.30(a)(2) as the building is unfit for occupancy as it fails to meet the minimum standards set out by city ordinances before a certificate of code compliance could be granted, or is unfit for human habitation because it fails to meet the minimum standards set out in the Minneapolis housing maintenance code, and the doors, windows and other openings into the building are boarded up or otherwise secured by a means other than the conventional methods used in the original construction and design of the building, and the building has remained substantially in such condition for a period of at least sixty (60) days.

3. The building located at 2639 Oliver Avenue N. meets the definition of a nuisance condition as set forth in M.C.O. § 249.30(a)(4) as evidence, including but not limited to rehab assessments completed by CPED, clearly demonstrates that the cost of rehabilitation is not justified when compared to the after rehabilitation resale value of the building.

5. The building located at 2639 Oliver Avenue N. meets the definition of a nuisance condition as defined by M.C.O. § 249.30 and a preponderance of the evidence, based upon the criteria listed in M.C.O. § 249.40, demonstrates that the building should be rehabilitated. The owner has met with staff and presented a rehabilitation plan for the building that addresses the concerns staff had regarding the building. The owner has shown to staff the financial ability to complete a full rehabilitation of the property and has put \$10,000.00 down as escrow in a show of good faith. By completing a full rehabilitation of the property the property will cease being a nuisance to the neighborhood and a completed rehabilitation will prevent the neighborhood from having another vacant lot in the area.

## **RECOMMENDATION**

That the building located at 2639 Oliver Avenue N., Minneapolis, Minnesota, be rehabilitated so that it no longer constitutes a nuisance condition.

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Noah Schuchman  
Chair,  
Nuisance Condition Process Review Panel